

JA



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,523	09/08/2003	Robert P. Welsh	TN-3540	9158

7590 02/04/2005  
Adan Ayala, Esq.  
Black & Decker Inc.  
TW-199  
701 E. Joppa Road  
Towson, MD 21286

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
----------	--------------

3725

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,523

Applicant(s)

WELSH, ROBERT P.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/7/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application poor legibility of reference characters and lead lines (See also attached Draftsperson review). The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-9, 11-14 and 19 -22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayala et al. (5,988,243) in view of Birkeland (6,240,987). With regard to claims 1-4, 6 and 22, Ayala discloses a work bench comprising: a tubular beam (11) having first and second sides (figs. 1), pivotable legs (13; col. 2, lines 1923) for supporting the beam; a bracket (12) for supporting at least one of a accessory and a power tool (100) wherein the bracket has first and second surfaces (17h, 12h) for contacting the first and second sides of the beam, respectively (fig. 2), the second surface being moveable between a first position contacting the second side of the beam and a second position not contacting the second side of the beam (11) and a spring (18) biasing the second surface towards the first position (fig. 2). Ayala does not disclose a wheel and axle. Birkeland teaches in a closely related art a workbench

Art Unit: 3725

constructed of a beam and having extension assemblies, a bracket/platform for mounting a power tool and pivotal legs wherein a wheels and an axle (50) are provided near one end of the beam for the provision of adjustability. Because the reference are from a closely related art and deal with a similar problem (i.e. portability) it would have been obvious at the time of the invention to one having ordinary skill in the art to provide Ayala's bench beam with a wheel axle for improved portability as taught by Birkeland.

With regard to claim 7 Ayala discloses a locating mechanism for fixing the position of the bracket on the beam (col. 2, lines 49-57).

With regard to claim 8, Ayala discloses a clip (17h). Examiner notes that the feet of surfaces (17) acts as a clip.

With regard to claim 9 Ayala discloses feet (12h, 17h) for disposing the bracket (12) on a substantially horizontal surface (fig. 2).

With regard to claim 11, Ayala disclose handle (16).

With regard to claim 12, Ayala does not disclose the handle attached on the underside of the beam. Ayala does however disclose the handle to be beneath the platform or upper most portion of the beam. Accordingly, it would have been obvious at the time of the invention to one having ordinary skill in the art to construct Ayala such that the handle (16) is on the underside of the beam, since the mere rearranging of parts of an invention involves only routine skill in the art. See *In re Japikse*, 86 USPQ 70.

With regard to claims 13 and 20, Ayala discloses a first and second extension arm (70,73) slidably disposed within the beam (fig. 1).

Art Unit: 3725

With regard to claim 14, Ayala discloses a locking mechanism (71, 72) for locking the position of the first extension arm relative to the beam (fig. 1).

With regard claims 19 and 21, Ayala discloses the extension arms telescoping within the beam (fig. 1).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ayala et al. (5,988,243) in view of Birkeland (6,240,987) as applied to claim 1 above, and further in view of Derecktor (5,836,365). Neither Ayala nor Birkeland disclose the beam to be made of aluminum. Derecktor teaches in a similar art a tubular workbench/beam having a bracket/platform for mounting a tool, extension assemblies and a work support wherein the tubular beam constructed of aluminum. Derecktor teaches this construction for its lightweight characteristics. Because the references are from a similar art and deal with a similar problem (i.e. portability, light weight lends to improved portability) it would have been obvious at the time of the invention to one having an ordinary level of skill in the art to construct Ayala's beam of aluminum for its ideal light weight properties as taught by Derecktor.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ayala et al. (5,988,243) in view of Birkeland (6,240,987) as applied to claim 1 above, and further in view of Ransom et al. (6,672,348). Neither Ayala nor Birkeland disclose the bracket/feet/platform made of plastic. It would have been obvious at the time of the invention to select plastic or any material on a basis of its suitability for construction of the bracket/platform/feet as a matter of obvious design choice. See *In Re Leshin*, 125 USPQ 416.

Art Unit: 3725

Moreover, Ransom teaches in a similar art a workbench having a bracket/platform (28) constructing of plastic (col. 3, lines 47-50). Accordingly because the references are from a similar art it would have been obvious to one having ordinary skill in the art at time of the invention to construct the bracket/platform/feet of plastic for its desirable/rigid characteristics as taught by Ransom.

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayala et al. (5,988,243) in view of Birkeland (6,240,987) as applied to claim 1 above, and further in view of Derecktor (2003/002464). Neither Ayala nor Birkeland disclose a cam clamp as a locking mechanism for locking the position of the first extension arm relative to the beam. Derecktor teaches a tubular beam workbench utilizing a cam-clamp (pg. 4, col. 1, lines 35-48) for securing an extension assembly (37a) within the tubular body (32). (As to the first and second positions, Examiner notes, that it is well known in the art that cam clamps are open able and closeable i.e., first and second positions for clamping/clasping an object.) It would have been obvious at the time of the invention to replace Ayala's locking mechanism (71, 72) with a cam-clamp locking mechanism to releasably secure and attach the extension assembly to the body as taught by Derecktor.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayala et al. (5,988,243) in view of Birkeland (6,240,987) as applied to claim 1 above, and further in view of Derecktor (2003/002464) and Perna (4,794,699). Neither Ayala nor Birkeland disclose a spring biased cam clamp. As noted above, Derecktor teaches the use any cam clamp to lock an

Art Unit: 3725

extension arm/assembly to the body or workbench. Perna teaches the use of spring biased cam locking clamps for locking/securing multiple objects together (Abstract). Because the references are concerned with the same problem (i.e. locking/securing an object to another) it would have been obvious at the time of the invention to one having ordinary skill in the art to replace, Ayala's locking means for securing the extension arm to the body with a spring biased locking means as taught by Perna to lock or secure an object to another.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf  
January 31, 2005



**DERRIS H. BANKS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**